BOMBAY ACT No. III OF 1888.[1]

[*14th September, 1888.*]

An Act to consolidate and amend the law relating to the Municipal Government of the City of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to the municipal government of the City of Bombay; It is enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the City of Bombay Municipal Act, 1888. Short title.

Except as is herein otherwise expressly provided, it extends only to the City of Bombay. Extent.

2. The enactments mentioned in Schedule A are repealed to the extent specified in the third column of the said schedule: Repeal of enactments.

Provided that—

(*a*) all rules and by-laws made, all notifications published, all orders issued and all licenses and permissions granted under any of the said enactments and still in force shall, so far as they are consistent with this Act, be deemed to have been respectively, made, published, issued and granted hereunder; and

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1887, Pt. V, p. 188, for Report of the Select Committee, *see ibid*, 1888, p. 1, and for Proceedings in Council, *see ibid*, 1887, p. 222 and *ibid*, 1888, pp. 177, 203, 228, 259, 286, 311 and 321.

Bom. Act 3 of 1888 has, so far as regards the Jurisdiction, decisions, orders and other proceedings of Appellate Benches of Municipal Authorities, Presidency and other Magistrates, Courts of Small Causes and Judges of such Courts, been declared to be as valid as if it had been passed by the Governor General of India in Council—*see* Act 12 of 1888, s. 1, Vol. I of this Code.

The Bombay Municipal Servants Act is to be read with Bom. Act 3 of 1888—*see* Bom. Act 5 of 1890, s. 2 (*2*), *infra*.

The Bombay Prevention of Adulteration Act, 1899, is also to be read with, and construed as if it were part of, Bom. Act 3 of 1888—*see* Bom. Act 2 of 1899, s. 2, Vol. IV of his Code.

The City of Bombay Police Charges Act, 1907 (Bom. Act 3 of 1907), is to be read with Bom. Act 3 of 1888. Only those amendments which it makes in the latter and which have been declared to come into force on 1st April, 1907, have been here incorporated; for the other amendments which have been declared (*see* ss. 39, 40 and 62) to come into force when notified by the Governor in Council, *see* Bom. Act 3 of 1907, Vol. IV of this Code.

(*b*) all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the municipal corporation before this Act comes into force shall be deemed to have been incurred, entered into or engaged to be done by, with or for the municipal corporation constituted under this Act ; and

(*c*) all rates, taxes and sums of money due to the corporation when this Act comes into force shall be deemed to be due to the corporation under this Act ; and

(*d*) all suits or other legal proceedings, civil or criminal, instituted or which might but for the passing of this Act have been instituted by or against the corporation or the Commissioner may be continued or instituted subject to the provisions of section 13 of Schedule R as if this Act had not been passed ; and

(*e*) all references made in any Act of the Governor of Bombay in Council to any of the said enactments shall be read as if made to this Act or to the corresponding portion thereof.

Definition of terms.

3. In this Act, unless there be something repugnant in the subject or context,—

(*a*) "the city" means the City of Bombay ;

(*b*) "the corporation" means the Municipal Corporation of the City of Bombay ;

(*c*) "councillor" means a member of the corporation duly elected or appointed under this Act ;

(*d*) "the Commissioner" means the Municipal Commissioner for the City of Bombay appointed under section 54, and includes an acting Commissioner appointed under sub-section (*3*) of section 59 ;

(*e*) "Deputy Commissioner" means a Deputy Municipal Commissioner appointed under section 55, and includes an acting Deputy Commissioner appointed under sub-section (*3*) of section 59 ;

(*f*) the "Police Commissioner" means the Commissioner of Police of Bombay ;

[1] * * * *

(*h*) "fellow" means a fellow of the University of Bombay ;

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[1] Clauses (*g*) and (*j*) were repealed by s. 2 of the City of Bombay Municipal (Amendment) Act, 1922 (Bom. Act 6 of 1922), Vol. V of this Code.

(*k*) "licensed plumber" and "licensed surveyor" mean, respectively, a person licensed by the Commissioner for the purposes of this Act as a plumber or surveyor, under section 355;

(*l*) "Small Cause Court" means the Court of Small Causes of Bombay;

(*m*) "owner" when used in reference to any premises, means the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes—

(*i*) an agent or trustee who receives such rent on account of the owner; and

(*ii*) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes; and

(*iii*) a receiver, sequestrator or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises;

(*n*) a person is deemed "to reside" in any dwelling which he sometimes uses, or some portion of which he sometimes uses, though, perhaps, not uninterruptedly, as a sleeping apartment;

and a person is not deemed to cease "to reside" in any such dwelling merely because he is absent from it, or has elsewhere another dwelling in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning thereto;

(*o*) the term "public securities" means securities of the Government of India and any securities guaranteed by Government, securities of the Bombay Port Trust, securities issued under this Act and any Bombay Municipal debentures or other securities heretofore issued;

(*p*) "tax" includes any impost leviable under this Act;

(*q*) "vehicle" includes a carriage, cart, van, dray, truck, handcart and wheeled conveyance of any description capable of being used on the streets of the city;

(*r*) "land" includes land which is [1] [being built upon or is built] upon or covered with water;

(*s*) "building" includes a house, out-house, stable, shed, hut and every other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatever;

[1] These words were substituted for the original word "built" by s. 2 of the City of Bombay Municipal (Amendment) Act, 1918 (Bom. Act 8 of 1918), Vol. V of this Code.

(*t*) "water-work" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, mainpipe, culvert, engine and any machinery, land, building or thing for supplying or used for supplying water ;

[1] [(*u*) "drain" includes a sewer, pipe, ditch, channel and any other device of carrying off sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter to the sewage outfall ;]

(*v*) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom ;

(*w*) "street" includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years ; and, when there is a footway as well as a carriageway in any street, the said term includes both ;

(*x*) "public street" means any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the corporation and any street which becomes a public street under any of the provisions of this Act ;

(*y*) "private street" means a street which is not a public street ;

(*z*) "nuisance" includes any act, omission, place, or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property ;

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[1] Clause (*u*) was substituted by s. 2 of the City of Bombay Municipal (Amendment) Act, 1905 (Bom. Act 5 of 1905), Vol. IV of this Code.

(*aa*) "dangerous disease" means cholera and any endemic, epidemic or infectious disease by which the life of man is endangered;

(*bb*) "official year" means the year commencing on the first day of April;

(*cc*) "public holiday" means a day or other period of time on or during which, by an order of Government published in the Bombay Government Gazette, Government offices in the city are closed;

(*dd*) "sub-section" and "clause" denote, respectively, a sub-section or clause of the section in which the word occurs.

[1][(*ee*) "bakehouse" means any place in which are baked bread, biscuits or confectionery, from the baking or selling of which a profit is derived;

(*ff*) "eating-house" means any premises to which the public are admitted and where any kind of food is prepared or supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such premises;

(*gg*) "premises" includes messuages, buildings and lands of any tenure, whether open or enclosed, whether built on or not and whether public or private.]

[2][(*hh*) "A sweetmeat shop" means any premises or part of any premises used for the manufacture, treatment or storing for sale, or for the sale, wholesale or retail, of any ice-cream, confections or sweetmeats whatsoever, for whomsoever intended, and by whatsoever name the same may be known, and whether the same be for consumption on or outside the premises.]

CHAPTER II.

THE MUNICIPAL CONSTITUTION.

Municipal Authorities.

4. The municipal authorities charged with carrying out the provisions of this Act are— Municipal authorities charged with execution of this Act.

(A) a Corporation;

(B) a Standing Committee;

(C) a Municipal Commissioner.

[1] Clauses (*ee*), (*ff*) and (*gg*) were inserted by s. 2 of the City of Bombay Municipal (Amendment) Act, 1916 (Bom. Act 1 of 1916), Vol. V of this Code.

[2] Clause (*hh*) was added by s. 2 of the City of Bombay Municipal (Amendment) Act, 1920 (Bom. Act 5 of 1920), Vol. V of this Code.